



MEMORANDUM

MONROE COUNTY PLANNING & ENVIRONMENTAL RESOURCES DEPARTMENT

We strive to be caring, professional and fair

To: Monroe County Planning Commission

Through: Townsley Schwab, Senior Director of Planning & Environmental Resources *TS*

From: Joseph Haberman, AICP, Principal Planner *JH*

Date: November 5, 2009

Subject: *Proposed Ordinance to the Board of County Commissioners to amend the Monroe County Code Sections 102-55, Registration; 110-4, Determination of completeness and compliance, except for single-family dwellings; 110-7, Actions by decision-making persons and bodies; 110-37, Development permitted as of right; 110-69, Minor conditional uses; 110-70, Major conditional uses; 110-71, Final development plan subsequent to approval of conditional use permit; 110-73, Development under an approved conditional use permit; 110-98, Preliminary plat approval; & 110-99, Final plat approval*

Meeting: November 17, 2009

1
2 I REQUEST
3

4 The Planning & Environmental Resources Department is proposing amendments to the text
5 of §102-55, §110-4, §110-7, §110-37, §110-69, §110-70, §110-71, §110-73, §110-98 and
6 §110-99 of the Monroe County Code. The purpose of the proposed amendments is to
7 eliminate references to the obsolete position of development review coordinator and reassign
8 those responsibilities and duties of the development review coordinator to the planning
9 director.
10

11 II RELEVANT PRIOR COUNTY ACTIONS:
12

13 At the October 7, 2009 public hearing, members of the planning commission recommended
14 that staff review the entire land development code and remove all references to the now
15 obsolete position of "development review coordinator". This recommendation followed
16 staff's request to amend §102-21. Among other proposed amendments to §102-21, staff
17 recommended that §102-21(c) be deleted due to the fact that the position of development
18 review coordinator has been eliminated in the Planning & Environmental Resources
19 Department.
20

21 III REVIEW
22

23 The current text within the Land Development Code describing the job requirements and
24 functioning of the Planning & Environmental Resources Department is outdated.
25

Concerning the development review coordinator position, the position of development review coordinator has been eliminated in the Planning & Environmental Resources Department. All responsibilities of the position have been assumed by the Director of Planning and the Principal Current Planner. Therefore, staff is recommending that the following sections of code be amended only to replace "development review coordinator" with "planning director":

NOTE: The reference to the development review coordinator in Sec. 110-73(a) is already being addressed and corrected in another text amendment application in progress, which has already been approved by the planning commission.

(deletions are ~~stricken through~~ and additions are underlined):

Sec. 102-55. Registration.

All claims of nonconforming uses and structures shall be registered with the ~~development review coordinator~~ planning director in a form provided by the director of planning within one year of the service of individual notice by mail to all landowners of record of the adoption of the plan and the requirement to register nonconforming uses and structures. Individual notice by mail shall be deemed served upon the deposit of duly stamped notice in the U.S. mails addressed to the owner of record according to the most recent listing of the property appraiser of the county. Failure to register a claim of nonconforming use or structure within one year after adequate legal notification by the director of planning shall constitute a waiver of the right to claim nonconforming use status. Evaluation of nonconformity claims shall be on a case-by-case basis by the director of planning based on the lawful nature of the use or structure when established, subject to appeal as provided in article VI of this chapter. The board of county commissioners, at its discretion, may direct the director of planning to issue notification by category.

Sec. 110-4. Determination of completeness and compliance, except for single-family dwellings.

Within 15 working days after an application for development approval has been received, the ~~development review coordinator~~ planning director shall determine whether the application is complete. If the ~~development review coordinator~~ planning director determines that the application is not complete, he shall serve a written notice on the applicant specifying the application's deficiencies. The ~~development review coordinator~~ planning director shall take no further action on the application unless the deficiencies are remedied. If the ~~development review coordinator~~ planning director fails to make a determination of completeness within 15 working days, the application is deemed complete. Once the application is deemed complete, the ~~development review coordinator~~ planning director shall cause the application to be evaluated within ten working days for compliance with the county's land use regulations. If the ~~development review coordinator~~ planning director determines that the application is not in compliance, he shall serve a written notice explaining why this is so; and the application shall be denied. If the application is determined to be in compliance with these land use regulations, the ~~development review coordinator~~ planning director shall notify the applicant and the secretary of the planning commission so that a public hearing may be scheduled no

1 earlier than 30 days following a determination of compliance and a notice given, if required,
2 and shall convene the development review committee. A determination of completeness shall
3 not constitute a determination of compliance with the substantive requirements of this
4 chapter.

5
6 **Sec. 110-7. Actions by decision-making persons and bodies.**
7

8 (a) Generally. All decision-making persons and bodies shall act in accord with time limits
9 established in this chapter except as provided in section 101-2(b). Action shall be taken as
10 promptly as possible in consideration of the interests of the citizens of the county.

11 (b) Findings. All decisions shall be in writing and adopted by resolution and shall include at
12 least the following elements:

- 13 (1) A summary of the information presented before the decision-making body;
14 (2) A summary of all documentary evidence provided to the decision-making
15 body or which the decision-making body considered in making its decision; and
16 (3) A clear statement of specific findings of fact and a statement of the basis
17 upon which such facts were determined, with specific reference to the relevant
18 standards set forth in this chapter, including, but not limited to, the standards in
19 section 110-67.

20 (c) Notification. Notification of a decision-making body's decision, by copy of the
21 resolution, shall be mailed by the ~~development review coordinator~~ planning director to the
22 applicant by certified mail.

23
24 **Sec. 110-37. Development permitted as of right.**
25

26 (a) Purpose. Uses permitted as of right are those uses that are compatible with other land uses
27 in a land use district, provided they are developed in conformity with this chapter.

28 (b) Application. An applicant for development approval for a use permitted as of right shall
29 submit an application for a building permit, together with a certificate of compliance, if
30 required, obtained pursuant to section 110-142 and a description of the proposed development,
31 to the building official.

32 (c) Action on the application. If the director of planning determines that the proposed
33 development is in compliance with all requirements of this Code and the Monroe County
34 Comprehensive Plan, and the building official determines that it is in compliance with the
35 Florida Building Code and the applicant for development approval has been awarded a
36 certificate of compliance, the building official shall issue a building permit with or without
37 conditions.

38 (d) Certified IS districts. This subsection authorizes the ~~development review coordinator~~
39 planning director to submit for certification by the board of county commissioners certain IS
40 areas herein defined which may be issued permits without review by the land planning
41 division.

42 (1) At any regularly scheduled meeting of the board of county commissioners,
43 certification may be given to those IS areas recommended for approval and listing by the
44 ~~development review coordinator~~ planning director.

45 (2) The ~~development review coordinator~~ planning director shall recommend from time to
46 time to the board of county commissioners any IS area that meets the following:

- 1 a. Documentation that all utilities and roads are in place consistent with the definition
2 of IS;
3 b. Documentation that all appropriate bulk regulations found in section 130-186 can
4 be followed, as well as the requirements of article V of this ~~chapter~~ chapter and chapter
5 130, article VI;
6 c. Provision for appropriate impact fee payments as required by chapter 126;
7 d. Provision for required landscaping as required by chapter 114, article IV; and
8 e. Provisions for adequate parking as required by chapter 114, article III and access
9 standards as required by chapter 114, article VII.
10 (3) Any certificate given by the board of county commissioners under this section shall be
11 in the form of a resolution that shall specify compliance with the requirements of
12 subsection (d)(2) of this section.
13

14 **Sec. 110-69. Minor conditional uses.**
15

- 16 (a) Applications for a minor conditional use permit. An application for a minor conditional
17 use permit shall be submitted to the ~~development review coordinator~~ planning director in the
18 form provided by the director of planning. If approval of a plat is required for the proposed
19 development, an application for plat approval shall be submitted in conjunction with the
20 application for a conditional use permit. If an application for a minor conditional use includes a
21 major conditional use, then the minor conditional use shall be considered in conjunction with
22 the major conditional use in accordance with the procedures of section 110-70.
23 (b) Review by the development review committee. An application for a minor conditional use
24 permit shall be reviewed by the development review committee. The development review
25 committee shall forward its report and recommendation on the application for a minor
26 conditional use permit to the director of planning within ten working days of its determination
27 of completeness.
28 (c) Decision by the director of planning. Within ten working days after receiving the report
29 and recommendation of the development review committee, the director of planning shall
30 render a development order granting, granting with conditions or denying the application for a
31 minor conditional use permit.
32 (d) Notice of grant of a minor conditional use permit. The director of planning shall give
33 notice of any development order granting a minor conditional use by sending a written notice
34 to all owners of real property located within 300 feet of the property that is subject to the minor
35 conditional use permit, and notice of the intent to issue the minor conditional approval shall be
36 published in newspapers of local circulation in the county by advertisement in the legal section.
37 The costs of publication and written notice are to be borne by the applicant. Notice by the
38 planning director shall be by regular mail on the day of the granting of the minor conditional
39 use.
40 (e) Consideration of a minor conditional use approval by the planning commission.
41 Consideration of a minor conditional use approval shall be governed by the provisions of
42 chapter 102, article VI.
43 (f) Public hearing on an application for a minor conditional use permit. The public hearing on
44 an application for minor conditional use, if requested by the applicant, an adjacent property
45 owner, or an aggrieved or adversely affected person, as defined by F.S. § 163.3215(2), or any

1 resident or real property owner, shall be conducted by the planning commission in accordance
2 with the provisions of section 102-185(e).
3

4 **Sec. 110-70. Major conditional uses.**
5

6 (a) Applications for major conditional uses. An application for a major conditional use permit
7 shall be submitted to the ~~development review coordinator~~ planning director in a form provided
8 by the director of planning.

9 (1) If approval of a plat is required for the proposed development, an application for plat
10 approval shall be submitted in conjunction with the application for a conditional use permit.
11 However, a major conditional use shall not become effective until the plat has been
12 approved by the board of county commissioners.

13 (2) As a part of the application for major conditional use, an applicant shall be required to
14 submit the following, except for those inappropriate to the proposed development due to
15 the limited size or scale of the development as determined by the planning director:

16 a. An environmental designation survey consisting of:

17 1. A plan drawn to a scale of one inch equals 20 feet or less, except where
18 impractical and the planning director authorizes a smaller scale, and
19 showing the following:

- 20 (i) The location of property;
- 21 (ii) The date, approximate north point and graphic scale;
- 22 (iii) The acreage within the property;
- 23 (iv) The boundary lines of the property and their bearings and
24 distances;
- 25 (v) The topography and typical ground cover;
- 26 (vi) The general surface characteristics, water areas and drainage
27 patterns;
- 28 (vii) The contours at an interval of not greater than one foot or at
29 lesser intervals if deemed necessary for review purposes;
- 30 (viii) The 100-year flood-prone areas by flood zone;
- 31 (ix) The presently developed and/or already altered areas; and
- 32 (x) The location of mean high-water line;

33 2. A natural vegetation map and/or a map of unique environmental features
34 such as:

- 35 (i) Climax tropical hardwood hammocks;
- 36 (ii) Endangered species habitats; and
- 37 (iii) Major wildlife intensive use areas;

38 3. Aerial photographs of the property and surrounding area;

39 4. A review of historical and archeological sites by the Florida Division of
40 Archives, History and Records Management;

41 5. A review of unique environmental features such as:

- 42 (i) Climax tropical hardwood hammocks;
- 43 (ii) Endangered species habitats; and
- 44 (iii) Major wildlife intensive use areas;

45 6. Actual acreage of specific vegetation species or other environmental
46 characteristics;

1 7. General information relating to the property in regard to the potential
2 impact which development of the site could have on the area's natural
3 environment and ecology;

4 8. Environmental resources:

5 (i) If shoreline zones were identified, describe in detail any
6 proposed site alterations in the areas, including vegetation removal,
7 dredging, canals or channels; identify measures which have been
8 taken to protect the natural, biological functions of vegetation within
9 this area such as shoreline stabilization, wildlife and marine habitat,
10 marine productivity and water quality maintenance;

11 (ii) If tropical hammock communities or other protected vegetative
12 communities were identified, describe proposed site alteration in
13 those areas and indicate measures which were taken to protect intact
14 areas prior to, during and after construction;

15 (iii) Describe plans for vegetation and landscaping of cleared sites
16 including a completion schedule for such work;

17 9. Environmental resources-wildlife. Describe the wildlife species that
18 nest, feed or reside on or adjacent to the proposed site. Specifically identify
19 those species considered to be threatened or endangered. Indicate measures
20 that will be taken to protect wildlife and their habitats; and

21 10. Environmental resources-water quality:

22 (i) Identify any wastewater disposal areas, including stormwater
23 runoff, septic tank drain-fields, impervious surfaces and
24 construction-related runoff; describe anticipated volume and
25 characteristics. Indicate measures taken to minimize the adverse
26 impacts of these potential pollution sources upon the quality of the
27 receiving waters prior to, during, and after construction; identify the
28 near shore water quality; and identify how this development will not
29 adversely impact the near shore water quality.

30 (ii) Indicate the degree to which any natural drainage patterns have
31 been incorporated into the drainage system of the project;

32 b. A community impact statement, including:

33 1. General description of proposed development:

34 (i) Provide a general written description of the proposed
35 development; include in this description the proposed phases of
36 development or operation and facility use, target dates for each of
37 these, and date of completion; in addition, indicate the site size,
38 developing staging and appropriate descriptive measures such as
39 quantity and type of residential units, commercial floor area, tourist
40 accommodation units, seating and parking capacities; for residential
41 development, indicate the anticipated unit-per-acre density of the
42 completed project;

43 (ii) Identify aspects of the project design, such as a clustering,
44 which were incorporated to reduce public facilities costs and
45 improve the scenic quality of the development; describe building
46 and siting specifications which were used to reduce hurricane and

- 1 fire damage potential to comply with federal flood insurance
2 regulations and the comprehensive land use plan;
- 3 2. Impact assessment on public facilities and water supply:
- 4 (i) Identify projected daily potable water demands at the end of
5 each development phase and specify any consumption rates that
6 have been assumed for the projection;
- 7 (ii) Provide proof of coordination with the Florida Keys Aqueduct
8 Authority; assess the present and projected capacity of the water
9 supply system and the ability of such system to provide adequate
10 water for the proposed development; and
- 11 (iii) Describe measures to ensure that water pressure and flow will
12 be adequate for fire protection for the type of construction proposed;
- 13 3. Public facilities--Wastewater management:
- 14 (i) Provide proof of coordination with the Florida Department of
15 Health and Rehabilitative Services;
- 16 (ii) Provide projection of the average flows of wastewater
17 generated by the development at the end of each development phase;
18 describe proposed treatment system, method and degree of
19 treatment, quality of effluent, and location of effluent and sludge
20 disposal areas; identify method and responsibilities for operation
21 and maintenance of facilities;
- 22 (iii) If public facilities are to be used, provide proof of coordination
23 with the county waste collection and disposal district; assess the
24 present and projected capacity of the treatment and transmission
25 facilities and the ability of such facilities to provide adequate service
26 to the proposed development; and
- 27 (iv) If applicable, provide a description of the volume and
28 characteristics of any industrial or other effluents;
- 29 4. Public facilities--Solid waste:
- 30 (i) Identify projected average daily volumes of solid waste
31 generated by the development at the end of each phase; indicate
32 proposed methods of treatment and disposal;
- 33 (ii) Provide proof of coordination with county municipal services
34 district; assess the present and projected capacity of the solid waste
35 treatment and disposal system and the ability of such facilities to
36 provide adequate services to the proposed development; and
- 37 (iii) Comply with the requirements of section 114-200 concerning
38 any applicable traffic study;
- 39 5. Public facilities--Transportation:
- 40 (i) Provide a projection of the expected vehicle trip generation at
41 the completion of each development phase; describe in terms of
42 external trip generation and average daily and peak hour traffic;
- 43 (ii) If the project site is adjacent to U.S. 1, describe the measures,
44 such as setbacks and access limitations, which have been
45 incorporated into the project design to reduce impacts upon U.S. 1;
- 46 6. Housing:

(i) If the project includes residential development, provide breakdown of the proposed residential units by price range or rental range and type of unit such as single-family, duplex, townhouse, etc.;

(ii) If lots are to be sold without constructed dwelling units, indicate the number and percentage of such lots and the extent of improvements to be made prior to sale;

(iii) Assess the potential of the proposed development to meet local or regional housing needs; in particular, indicate any measures taken to provide low- and moderate-income housing;

7. Special considerations:

(i) Describe the relationship of the proposed development to the comprehensive land use plan objectives and policies; also indicate relationships between existing or proposed public facilities plans; identify any conflicts;

(ii) Indicate any relationships of the project to special land use and development district such as airport noise and hazard zones, solid or liquid waste treatment or disposal areas;

(iii) If applicable, assess the impact of the proposed development upon other adjacent or nearby municipalities or counties;

8. The data and information provided in a community impact statement shall be coordinated with data and other information and/or permits required by local, regional, state or federal regulatory or reviewing agencies as appropriate to the major conditional use proposed.

(b) Review by the development review committee. An application for a major conditional use permit shall be reviewed by the development review committee. Within 15 working days after the submission of a complete application for a major conditional use permit, the development review committee shall forward a report and recommendation on the application for a major conditional use permit to the planning commission.

(c) Public hearing on an application for a major conditional use permit. The planning commission shall hold a public hearing on the application for a major conditional use permit and shall within 45 working days of the submission of a complete application for a major conditional use permit to the ~~development review coordinator~~ planning director issue a development order granting, granting with conditions or denying the application for a major conditional use permit.

(d) Notice of grant of a major conditional use permit. The director of planning shall give notice of any development order granting a major conditional use by sending a written notice to all owners of real property located within 300 feet of the property that is the subject of the major conditional use permit, and notice of the intent to issue the major conditional approval shall be published in newspapers of local circulation in the county by advertisement other than in the legal notice section with the cost to be borne by the applicant. Notice by the planning director shall be by regular mail within 15 days of the granting of the major conditional use.

(e) Appeal of a conditional use approved by the planning commission. The applicant, an adjacent property owner, or any aggrieved or adversely affected person, as defined by F.S. § 163.3215(2), or any person who presented testimony or evidence at the public hearing conducted pursuant to subsection (c) of this section may request an appeal of the planning

commission's major conditional use decision under chapter 102, article VI, division 2 by filing the notice required by that article within 30 days after the publication of notice or sending of the written notice by the county, whichever is later.

Sec. 110-71. Final development plan subsequent to approval of conditional use permit.

(a) Purpose. The final development plan is a more detailed plan for implementation of an approved conditional use.

(b) Authority. The final plan representing conditions placed by the planning commission and required for development approval shall be submitted to the director of planning within 60 days of the rendering of the development order for the conditional use permit. The final plan may be submitted in phases if phases have been approved as part of approval at the time of major conditional use approval.

(c) Application. An application for final development plan approval shall include the information specified in a form provided by the director of planning.

(d) Staff review. If the ~~development review coordinator~~ planning director shall find that the application is complete, the application shall be reviewed by a development review committee, who shall submit a report to the director of planning and planning commission within 15 working days of the date of a determination that the application is complete.

(e) Final plan approval. Unless final development plan approval has been reserved to the planning commission as a condition of approval of a conditional use permit or by the provisions pertaining to that land use district, the director of planning, upon a finding of conformity with the conditional use approval, shall prepare a report of his findings. If final action of a final development plan has been reserved to the planning commission, the planning commission shall hear it at a regularly scheduled meeting and upon the recommendation of the planning director shall approve a final development plan if it is deemed to be in conformity with conditional use approval. If the plan is not in conformity, the planning commission shall return the final plan to the applicant with a written statement of the changes that would make the final plan conform. The planning commission shall consider the final plan at a regularly scheduled hearing when requested by the applicant. Any final plan rejected by the planning commission shall be deemed null and void if not resubmitted within 180 days unless tolled by the filing of an appeal under subsection (e)(2) of this section.

(1) A final plan shall be deemed to be in conformity if it:

a. Evidences development within the parameters established by the planning commission in the prior approval of the conditional use as to the total number of dwelling units proposed by type of structure and number of bedrooms;

b. Evidences development within the parameters established by the planning commission as to the total number of nonresidential structures;

c. Evidences development within the parameters established by the planning commission as to the total square feet of building floor area proposed;

d. Evidences development within the parameters established by the planning commission as to the total land area devoted to residential uses, commercial uses, public and private open space, streets, off-street parking and loading areas and other impervious surfaces;

e. Evidences development within the parameters established by the planning commission for floor area ratio by type of development;

- 1 f. Evidences development within the parameters established in the prior approval of
2 the conditional use permit for the number of off-street parking and loading spaces for
3 each type of use;
4 g. Evidences development that is consistent with the stated purpose of the land use
5 district; and
6 h. Evidences conformity to such other criteria and/or conditions as were established by
7 the planning commission in the conditional use permit.
8 (2) The holder of an approved conditional use whose final development plan has been
9 denied by the planning commission may request an appeal hearing before a hearing officer
10 under chapter 102, article VI, division 2 by filing the notice required by that article within
11 30 days of the date of the written denial of the planning commission
12

13 **Sec. 110-73. Development under an approved conditional use permit.**
14

15 (a) Effect of issuance of a conditional use approval. Approval for a conditional use shall be
16 deemed to authorize only the particular use for which it is issued. A conditional use approval
17 shall not be transferred to a successive owner without notification to the development review
18 coordinator within five days of the transfer.

19 (1) Unless otherwise specified in the approved conditional use approval, application for a
20 building permit shall be made within six months of the date of the approval of the
21 conditional use, and all required certificates of occupancy shall be procured within two
22 years of the date of issuance of the initial building permit, or the conditional use approval
23 shall become null and void with no further action required by the county. Approval time
24 frames do not change with successive owners. An extension of time may be granted only
25 by the planning commission for a period not to exceed one year and only within the
26 original period of validity. When a hearing officer has ordered a conditional use approval
27 initially denied by the planning commission, the planning commission shall nonetheless
28 have the authority to grant or deny a time extension under this section. If the planning
29 commission denies a time extension, the holder of the conditional use may request an
30 appeal of that decision under chapter 102, article VI, division 2 by filing the notice required
31 by that article within 30 days of the written denial of the planning commission.

32 (2) Development of the use shall not be carried out until the applicant has secured all other
33 permits and approvals required by this chapter, this Code, or regional, state and federal
34 agencies and until the approved conditional use is recorded in accordance with section 110-
35 72.

36 (b) Adjustments to approved conditional use approvals and inspection during development
37 under a conditional use approval.

38 (1) Authorized. After a conditional use has been approved, adjustments may be approved
39 for major or minor deviations as set forth in subsections (b)(3) and (b)(4) of this section.

40 (2) Inspections by department of planning. Following issuance of a conditional use
41 approval, the director of planning shall review on a quarterly basis until the completion of
42 the development all permits issued and construction undertaken, shall compare actual
43 development and the approved plans and permits for development and the approved
44 development schedule, if any, and shall report his findings in writing to the planning
45 commission.

(3) Minor deviations. The director of planning may approve a minor deviation from the final development plan and schedule. Minor deviations must be authorized in writing and are subject to administrative appeal to the planning commission. Minor deviations that may be authorized are those that appear necessary in light of technical and engineering considerations brought to light by the applicant or the director of planning and shall be limited to the following:

- a. Alteration of the location of any road or walkway by not more than five feet;
- b. Reduction of the total amount of open space by not more than five percent or reduction of the yard area or open space associated with any single structure by not more than five percent, provided that such reduction does not permit the required open space to be less than that required by section 130-157; and
- c. Alteration of the location, type or quality of required landscaping elements of the conditional use permit.

(4) Major deviations. If the holder of an approved conditional use wishes to make an adjustment to the approval that is not a minor deviation, approval of the planning commission in accordance with the provisions of subsection (b)(5) of this section must be obtained. If the director of planning finds that the development is not proceeding in substantial accordance with the approved plans or schedule or that it fails in any other respect to comply with the conditional use approval issued or any provision contained in this chapter, that director shall immediately notify the ~~development review coordinator~~ planning director and the planning commission and may, if necessary for the protection of the public health, safety or welfare, notify the building official to issue a temporary order stopping any and all work on the development until such time as any noncompliance is cured. No action may be taken by the planning commission that effectively amends the conditional use approval except by way of the procedures set out in section 110-70.

(5) Action by the planning commission. Within 30 working days following notification by the director of planning that work is not proceeding in substantial accordance with the approved plans or schedule or in some other respect is not in compliance with the conditional use approval, the commission shall:

- a. Determine that action be taken to bring development into substantial compliance;
- b. Determine that the conditional use approval be revoked; or
- c. Authorize adjustments to the approved conditional use approval when such adjustments appear necessary in light of technical or engineering considerations first discovered during actual development and not reasonably anticipated during the initial approval process. Such adjustments shall be consistent with the intent and purpose of the conditional use approval as permitted, and shall be the minimum necessary to overcome the particular difficulty. No adjustment shall be inconsistent with the requirements of this chapter. Prior to considering action on such adjustments, the planning commission shall make inquiry of any person having information that may relate to the basis for consideration of an adjustment, but shall act as promptly and as expeditiously as possible. If the planning commission determines that an adjustment is necessary, it may, without public hearing, approve the following adjustments, provided that such adjustments do not have the effect of reducing the open space required under the provisions of section 130-157:

1. Alteration of the bulk regulations for any one structure by not more than five percent;
 2. Alteration of the location of any one structure or group of structures by not more than ten feet; and
 3. Alterations of such other requirements or conditions as were imposed in the approval of the conditional use or in approval of the final development plan by not more than five percent or, in the case of location, a variation of not more than ten feet from the location approved in the final plan, so long as in all cases such adjustments are in accord with the parameters established in the conditional use approval.
- d. In the event the building official has issued a temporary order stopping work as provided for herein, the planning commission shall, within 30 working days from the date of the issuance of the temporary order:
1. Proceed to revoke the conditional use approval; or
 2. Overrule the action of the building official, in which case the temporary order shall immediately become null and void.
- (6) Appeal before hearing officer. The holder of a conditional use approval aggrieved by the decision of the planning commission made pursuant to subsection (b)(5) of this section may request an appeal before a hearing officer under chapter 102, article VI, division 2 by filing the notice required by that article within 30 days of the date of the written decision of the planning commission.
- (c) Other adjustments. Any other adjustments or changes not specified in subsection (b) of this section shall be granted only in accordance with procedures for original approval of a conditional use, as set forth in section 110-63 et seq.
- (d) Inspections after development.
- (1) Inspections by planning department. Following completion of the development of a conditional use, the planning department shall review the development for compliance with the use as approved. If it is determined that the conditional use has been developed in accordance with the approval, then a certificate of occupancy shall be issued in accordance with section 6-145. If the director of planning finds that the development, as completed, fails in any respect to comply with the use as approved, he shall immediately notify the building official, the ~~development review coordinator~~ planning director, the planning commission, the board of county commissioners, and the applicant of such fact. The building official shall not issue a certificate of occupancy pursuant to section 6-145 until the planning commission has acted on the planning director's notification of noncompliance. ~~see~~
 - (2) Action by planning commission. Within 30 working days following notification by the director of planning, the commission shall:
 - a. Recommend that the finding of the director of planning be overruled;
 - b. Recommend to the applicant modifications in the development to bring it into accord with the terms and provisions of the final plan approval and the conditional use permit; or
 - c. Revoke the conditional use permit, as well as all prior approvals and related or resulting permits.
 - (3) Appeal before hearing officer. The holder of a conditional use approval aggrieved by the decision of the planning commission pursuant to subsection (b)(5) of this section may

1 request an appeal before a hearing officer under chapter 102, article VI, division 2 by filing
2 the notice required by that article within 30 days of the date of the written decision of the
3 planning commission
4

5 **Sec. 110-98. Preliminary plat approval.**
6

7 (a) Generally. All applicants for approval of a plat involving five or more lots shall submit a
8 preliminary plat for approval in accordance with the provisions of this section.

9 (b) Application. An application for preliminary approval shall be submitted to the
10 ~~development review coordinator~~ planning director in accordance with the provisions of this
11 section, accompanied by a nonrefundable fee as established from time to time by the board of
12 county commissioners. The application shall contain the information required on a form
13 provided by the director of planning.

14 (c) Staff review. After a determination that the application for preliminary plat approval is
15 complete under the provisions of section 110-4, the ~~development review coordinator~~ planning
16 director shall submit the application to the development review committee, which shall prepare
17 a recommendation and report for the commission.

18 (d) Public hearing and action by the planning commission. The planning commission shall
19 conduct a public hearing on an application for preliminary plat approval of a subdivision
20 involving five or more lots, in accordance with the requirements of sections 110-6 and 110-7.
21 The commission shall review such applications, the recommendation of the development
22 review committee, and the testimony at the public hearing, and shall recommend granting
23 preliminary plat approval, granting approval subject to specified conditions, or denying the
24 application at its next meeting following submittal of the report and recommendation of the
25 development review committee.

26 (e) Effect of approval of preliminary plat. Approval of a preliminary plat shall not constitute
27 approval of a final plat or permission to proceed with development. Such approval shall
28 constitute only authorization to proceed with the preparation of such documents as are required
29 by the director of planning for a final plat.

30 (f) Limitation on approval of preliminary plat. An application for final plat approval shall be
31 filed within one year of the date of preliminary plat approval. Unless an extension is granted by
32 the board of county commissioners, failure to file such an application automatically shall
33 render null and void the preliminary approval previously granted by the board.
34

35 **Sec. 110-99. Final plat approval.**
36

37 (a) Generally. All applicants for approval of a plat shall submit a final plat for approval in
38 accordance with the provisions of this section.

39 (b) Application. It shall be the responsibility of the developer to complete, have in final form,
40 and submit to the ~~development review coordinator~~ planning director for final processing the
41 final plat, along with all final construction plans, required documents, exhibits, legal
42 instruments to guarantee performance, certificates properly executed by all required agencies
43 and parties as required in this article, and the recording fee, and any other documents or
44 information as are required by the director of planning. After receipt of a complete application
45 for final plat approval, as determined in accordance with section 110-4, the ~~development~~

1 ~~review coordinator~~ planning director shall submit the application and accompanying
2 documents to the development review committee.

3 (c) Review and action by development review committee. The development review
4 committee shall review all applications for final plat approval.

5 (1) If the committee determines that a final plat for a subdivision involving fewer than
6 five lots conforms to the substantive and procedural requirements of this chapter, the
7 committee shall approve the final plat or approve it with conditions at its next regular
8 meeting 15 working days after receipt of a complete application from the ~~development~~
9 ~~review coordinator~~ planning director, or as soon thereafter as practical. Final plats that are
10 approved by the committee shall be placed on the consent agenda of the next regularly
11 scheduled meeting of the board of county commissioners and shall become final unless
12 removed from the consent agenda by the affirmative vote of three members of the board. If
13 a final plat is removed from the consent agenda, the board shall not modify or reject the
14 decision of the committee unless the board finds that the record does not contain competent
15 substantial evidence to support approval. If the committee denies final plat approval, the
16 applicant may appeal such denial to the board, which shall consider the application and any
17 additional testimony submitted by the applicant and other persons and shall approve the
18 final plat, approve it with conditions, or deny final plat approval.

19 (2) For a final plat for a subdivision involving five or more lots, if the plat conforms to the
20 approved preliminary plat and the substantive and procedural requirements of this chapter,
21 at its next regular meeting or as soon as practical after receipt of a complete application, the
22 development review committee shall recommend to the planning commission approval of
23 the final plat or approval with conditions. If the committee finds that the plat does not
24 substantially conform to the approved preliminary plat or the substantive and procedural
25 requirements of this chapter, the committee shall recommend denial, specifying the area of
26 nonconformity.

27 (d) Review and action by the planning commission. The planning commission shall review all
28 applications for final plat approval involving five or more lots and the recommendation of the
29 development review committee. If the commission finds that the final plat conforms to the
30 approved preliminary plat and the substantive and procedural requirements of this chapter, and
31 commission shall recommend to the board of county commissioners approval of the final plat,
32 or approval with specified conditions, and shall submit a report and written findings in
33 accordance with section 110-7.

34 (e) Public hearing by the board of county commissioners. The board of county commissioners
35 shall conduct a public hearing on all applications for final plat approval involving five or more
36 lots in accordance with the procedures of section 110-6(c).

37 (f) Action by the board of county commissioners. For proposed subdivisions involving five or
38 more lots, the board of county commissioners shall review the application, the
39 recommendations of the development review committee and the planning commission, and the
40 testimony at the public hearing, and shall grant final plat approval, grant approval subject to
41 specified conditions, or deny the application, in accordance with the provisions of section 110-
42 7.

1 IV RECOMMENDATION

2
3 Staff has found that the proposed text amendments would be consistent with the provisions of
4 §102-158(d)(5)(b): 1. Changed projections (e.g., regarding public service needs) from those
5 on which the text or boundary was based; 2. Changed assumptions (e.g., regarding
6 demographic trends); 3. Data errors, including errors in mapping, vegetative types and
7 natural features described in volume I of the plan; 4. New issues; 5. Recognition of a need for
8 additional detail or comprehensiveness; or 6. Data updates. Specifically, staff has found that
9 the proposed text amendments are necessary due to new issues and recognition of a need for
10 additional detail.

11
12 Therefore, staff recommends that the Board of County Commissioners amend the
13 Monroe County Code as stated in the text of this staff report.